

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: Zachary T. Weber
Debtor.

Nationstar Mortgage LLC d/b/a Mr. Cooper
Movant,
v.

Zachary T. Weber
Debtor/Respondent.

Jessica F. Weber
(Non-filing Co-Debtor)

Charles J. DeHart, III, Trustee
Additional Respondent.

BANKRUPTCY CASE NUMBER
18-01378/HWV

CHAPTER 13

11 U.S.C. § 362

**MOTION OF NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER FOR RELIEF
FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY UNDER § 362 (d) AND
§1301**

Nationstar Mortgage LLC d/b/a Mr. Cooper ("Movant"), by and through its undersigned counsel, pursuant to 11 U.S.C. § 362 and §1301, hereby seeks relief from the automatic stay and co-debtor stay to exercise and enforce its rights, without limitation, with respect to certain real property. In support of this motion, Movant avers as follows:

1. Debtor named above filed a Voluntary Petition under Chapter 13 of the United States Bankruptcy Code in the Middle District of Pennsylvania under the above case number.
2. Movant is the holder of a secured claim against Debtor, secured only by a first mortgage lien on real estate which is the principle residence of Zachary T. Weber ("Debtor") and Jessica F. Weber ("Non-filing Co-Debtor") located at 4515 Winfield Street, Harrisburg, PA 17109 (the "Mortgaged Premises").
3. Movant services the loan on the property referenced in this motion for relief. In the event the automatic stay in this case is modified, this case dismisses and/or the debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Nationstar Mortgage LLC d/b/a Mr. Cooper.
4. Movant directly or through an agent, has possession of the promissory note. The promissory note is either made payable to Noteholder or has been duly indorsed in blank. Noteholder is the original mortgagee, or beneficiary, or the assignee of the security instrument for the referenced loan.

5. The filing of the aforesaid Petition operated as an automatic stay under Section 362(a) of the Bankruptcy Code of proceedings by Movant to foreclose on the Mortgaged Premises. Movant requests relief from the automatic stay to continue with the filed mortgage foreclosure action, if any, and to take the necessary action to obtain the Mortgaged Premises.

6. Additional Respondent is the Standing Trustee appointed in this Chapter 13 proceeding.

7. Debtor has claimed an exemption in the amount of \$23,675.00 in the subject property.

8. Debtor has failed to make post-petition monthly mortgage payments.

9. The defaults include the failure to make the following monthly payments:

- a) Payments of \$990.39 from June 1, 2019 through June 1, 2019 which totals \$990.39;
- b) Payments of \$993.95 from July 1, 2019 through October 1, 2019 which totals \$3,975.80;
- c) Suspense Balance (\$953.20);
- d) The total amount due (a through b combined) is \$4,012.99

10. The Fair Market Value of the Mortgaged Premises is \$142,000.00, as per Debtor's Schedules. The approximate amount necessary to payoff the loan is \$139,159.86 good through October 7, 2019. The breakdown of the payoff is as follows:

Principal Balance	\$122,521.20
Accrued Interest	\$7,759.60
Escrow Advances made by Plaintiff	\$6,027.72
Corporate Advances	\$4,028.50
Suspense Balance	\$1,177.16

11. Movant's interests are being immediately and irreparably harmed. Movant is entitled to relief, from the automatic stay, pursuant to either 11 U.S.C. § 362 (d)(1) or (d)(2), because of the foregoing default and because:

- a) Movant lacks adequate protection for its interests in the Mortgaged Premises;
- b) Debtor has little, if any, equity in the Mortgaged Premises; and
- c) The Mortgaged Premises are not necessary to an effective reorganization or plan.

12. Movant requests that the Court waive Rule 4001(a)(3), permitting Movant to immediately implement and enforce the Court's order.

13. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

14. Movant additionally seeks relief from the Co-Debtor stay under §1301 (if applicable) in the instant case, as the continuation of the co-debtor stay causes irreparable harm to the Movant. Movant may be barred from moving forward with its state court rights under the terms of the mortgage without relief from the co-debtor stay.

WHEREFORE, Movant respectfully moves this Court for an Order (i) granting Movant relief from the automatic stay to foreclose upon and to otherwise exercise and enforce its rights with respect to the Mortgaged Premises, (ii) awarding reasonable attorneys' fees incurred in the preparation and presentation of this motion, and (iii) granting all such other and further relief as the Court deems appropriate and necessary.

Respectfully submitted,

Dated: October 10, 2019

S&D File #:19-061979

BY: /s/ Kevin S. Frankel
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ORDER

AND NOW, this _____ day of _____, 2019, at the Middle District of Pennsylvania, upon the consideration of the Motion of Movant for Relief from the Automatic Stay (the "Motion"), and the failure of Debtor and Co-Debtor to file an answer, appear or otherwise respond to the Motion, and for good cause shown, it is

ORDERED AND DECREED that the Automatic Stay of all proceedings, as provided under Section 362 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the "Code"), 11 U.S.C. § 362 and §1301, is lifted to allow Movant, or its successors, if any, to proceed with its rights under its loan documents for the property located at 4515 Winfield Street, Harrisburg, PA 17109; and it is

FURTHER ORDERED that Rule 4001(a)(3) is not applicable and Movant, or its successors, if any, may immediately implement this order.

BY THE COURT:

HONORABLE HENRY W. VAN ECK
UNITED STATES BANKRUPTCY JUDGE

LOCAL BANKRUPTCY FORM 4001-1
IN THE UNITED STATES BANKRUPTCY COURT
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POST-PETITION PAYMENT HISTORY
NOTE AND MORTGAGE DATED NOVEMBER 17, 2014

Recorded on November 24, 2014, in Dauphin **County**, in Document No. 20140028381.

Property Address: 4515 Winfield Street, Harrisburg, PA 17109

Mortgage Servicer: Nationstar Mortgage LLC d/b/a Mr. Cooper

Post-petition mailing address for Debtor to send payment:

Nationstar Mortgage LLC d/b/a Mr. Cooper

PO Box 619094

Dallas, Texas 75261-9741

Mortgagor(s)/Debtor: Zachary T. Weber

Payments are contractually due:

Monthly X Semi-monthly _____ Bi-weekly _____ Other _____

Each Monthly Payment is comprised of:

Principal and Interest	\$	<u>623.46</u>
R.E. Taxes	\$	<u>0.00</u>
Insurance	\$	<u>0.00</u>
Late Charge	\$	<u>0.00</u>
Other	\$	<u>(Escrow) 370.49</u>
TOTAL	\$	<u>993.95</u>

POST-PETITION PAYMENTS (Petition was filed on April 4, 2018)

Payment amount due	Date payment was due	Date payment was received	Amount received	Check number	How payment was applied (mo./yr.)
\$990.39	05/01/2018	05/08/2018	\$1,011.00		05/01/2018 + \$20.61 to suspense
\$990.39	06/01/2018	07/16/2018	\$1,010.00		06/01/2018 + \$19.61 to suspense
\$990.39	07/01/2018	09/12/2018	\$991.27		07/01/2018 + \$0.88 to suspense
\$990.39	08/01/2018	10/26/2018	\$3,011.00		08/01/2018 + \$2,020.61 to suspense
\$990.39	09/01/2018		\$990.39 from suspense		09/01/2018
\$990.39	10/01/2018		990.39 from suspense		10/01/2018
\$990.39	11/01/2018	01/14/2019	\$2,500.00		11/01/2018 + \$1,509.61 to suspense
\$990.39	12/01/2018		\$990.39 from suspense		12/01/2018
\$990.39	01/01/2019	03/11/2019	\$1,735.00		01/01/2019 + \$744.61 to suspense
\$990.39	02/01/2019		\$990.39 from suspense		02/01/2019
\$990.39	03/01/2019	05/10/2019	\$1,600.00		03/01/2019 + \$609.61 to suspense
\$990.39	04/01/2019	08/12/2019	\$990.00 + \$0.39 from suspense		04/01/2019
\$990.39	05/01/2019	08/23/2019	\$980.00 + \$10.39 from suspense		05/01/2019
\$990.39	06/01/2019				
\$993.95	07/01/2019				
\$993.95	08/01/2019				
\$993.95	09/01/2019				
\$993.95	10/01/2019				

[Continue on attached sheets if necessary]

TOTAL NUMBER OF POST-PETITION PAYMENTS PAST DUE: 5 as of October 7, 2019.TOTAL AMOUNT OF POST-PETITION ARREARS: \$4,012.99 as of October 7, 2019.

Dated: October 10, 2019

BY: /s/ Kevin S. Frankel

Counsel for Movant

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF PENNSYLVANIA

In re: Zachary T. Weber
Debtor(s)

Chapter: 13

Case number: 18-01378/HWV

Nationstar Mortgage LLC d/b/a Mr. Cooper
Movant(s)

Matter: Motion for Relief from Stay

Vs.

Zachary T. Weber

Debtor(s)

Charles J. DeHart, III, Trustee

Respondent(s)

Notice

Notice is hereby given that:

The debtor(s) filed a Chapter 13 Bankruptcy Petition on April 4, 2018.

A hearing on the above referenced matter has been scheduled for:

**United States Bankruptcy Court
Ronald Reagan Federal Building,
Bankruptcy
Courtroom (3rd Floor), Third &
Walnut Streets
Harrisburg, PA 17101**

**Date: November 5, 2019
Time: 9:30 am**

Any objection/response to the above referenced matter must be filed and served on or before October 24, 2019.

If service was properly made and Respondent(s) fail to file an objection/response by the above specified date, the Court **may** determine after review of the Motion that no hearing is required and grant the relief requested.

If a default order has not been signed and entered, the parties or their counsel are required to appear in Court at the hearing on the above date and time.

Date: October 10, 2019

Movant's Name, Address, Phone Number
Nationstar Mortgage LLC d/b/a Mr. Cooper
8950 Cypress Waters Blvd
Coppell, Texas 75019

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CERTIFICATE OF SERVICE

I, Leslie Thomas, an employee of the law firm of Shapiro & DeNardo, LLC hereby certify that I caused to be served true and correct copies of the Motion and Notice of Motion, Response Deadline and Hearing Date by First Class Mail, postage prepaid or by electronic notification, at the respective last known address of each person set forth below on October 10, 2019:

Zachary T. Weber, 4515 Winfield Street, Harrisburg, PA 17109

Jessica F. Weber, 4515 Winfield Street, Harrisburg, PA 17109

Chad J. Julius, Esquire, 8150 Derry Street, Suite A, Harrisburg, PA 17111
Sent via electronic notification cjulius@ljacobsonlaw.com

Charles J. DeHart, III, Trustee, 8125 Adams Drive, Suite A, Hummelstown, PA 17036
Sent via electronic notification dehartstaff@pamd13trustee.com

United States Trustee
Sent via electronic notification ustpreion03.ha.ecf@usdoj.gov

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT.

/s/ Leslie Thomas

Leslie Thomas
Shapiro & DeNardo, LLC
3600 Horizon Drive, Suite 150
King of Prussia, PA 19406